

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES

v.

JOSEPH RACHAL

No. 16-CR-10043-NMG

**MOTION TO DISMISS SECTION 924(c) COUNT**

Defendant, Joseph Rachal, respectfully moves to dismiss count two of the indictment, charging him with possession of a firearm during and in relation to a “crime of violence,” in violation of 18 U.S.C. § 924(c). Dismissal is required because the predicate offense — armed bank robbery charged in count one — does not qualify as a “crime of violence” in the wake of the Supreme Court’s decision last year in *Johnson v. United States*, 135 S. Ct. 2551 (2015).

**Statutes at Issue**

This motion primarily concerns the following federal statutes:

1) **18 U.S.C. § 2113(a) (Bank Robbery)**

Section 2113(a), in pertinent part, provides:

Whoever, by force and violence, or by intimidation, takes, or attempts to take, from the person or presence of another property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association . . . shall be [punished in accordance with the remainder of the statute].

2) **18 U.S.C. § 2113(d) (Armed Bank Robbery)**

Section 2113(d), in pertinent part, provides:

Whoever, in committing, or in attempting to commit, any offense defined in subsections (a) and (b) of this section, assaults any person, or puts in jeopardy the

*Motion allowed. JM Gordon, USDJ 10/5/16*